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EXAMINER	
KLAYMAN, AMIR ARIE	
ART UNIT	PAPER NUMBER
3711	
MAIL DATE	DELIVERY MODE
11/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/541,649	ANDERSON ET AL.	
	Examiner	Art Unit	
	AMIR KLAYMAN	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 July 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *36-61* is/are pending in the application.

4a) Of the above claim(s) *38,43,45 and 54* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *36,37,39-42,44,46-53 and 55-61* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/27/09*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Examiner withdraws his objection to the specification.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 36-37, 39, 41-42, 44, 46-53 and 55-58 rejected under 35 U.S.C. 102(b) as being anticipated by Feuz US 5121695.

Regarding claim 36, Feuz discloses: an amusement ride (fig 1 and col 1, ln 5-15 a ride that practically known at sky sites with chairlifts); a rotatable loop 2 between stations (see fig 1 and col 1, ln 5-15 a cable revolving between stations); a drive system that rotate the loop 2 in the direction 3 at certain rpm (see fig 1 and col 3, ln 23-30, the rpm of the moving cable 2 which has been driven by the drive system); a passenger carrier (seat 50, see figs 1-3) comprising a roller mechanism (fig 1, roller 66); a clamping mechanism (fig 1, clamp 52 ; see col 4, ln 20-35); an electronic control system, the amusement ride operated in automatic manner (see col 1, ln 1-47; see also col 3, ln 8-42 the movement of cable 2 in a certain rpm movement, caused by the drive system which is operated automatically, i.e. via the electronic control system); with respect to the method of using/ operating the passenger carrier in a free-roll along the cable, or the operation of the electronic system to actuate the clamping mechanism, as

examiner cited in the previous office action, the examination was conducted on the fact that the structure limitation is the claimed subject matter for an apparatus claim, as the court held: while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must
be distinguished from the prior art in terms of structure rather than function.
See In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997), MPEP 2114[R-1]; thus, Feuz's structure is fully capable of performing the same function as claimed, since his device is equipped with the same features as the claim subject matter. For example: chair 50 (passenger carrier marked as 50' in segment 4) is in a free-roll in segment 4, i.e. free-roll a long cable 2, wherein chair's rollers 66 will roll over wheels 6&8, which are situated on cable 2, by the chair own weight, and therefore causing chair 50 to roll/slide/move by gravity (see col 5, ln 50-65); thus, there is a free-roll of chair 50 in segment 4 along cable 2 via rollers 66 rolling onto wheels 6&8 by the chair's own weight, i.e. via gravity. With respect to the control system operable to activate the clamping system (see fig 3 and col 4, ln 23-50, or col 5, ln 30-65 see the activation of the clamping mechanism); the amusement apparatus is automatically operated, i.e. via electronic system, which causes the cable 2 to be driven, wheels 6&8&10 to move, and the entire apparatus to function, which also causes clamp 52 to latch/detached chair 50 to cable 2 via the clamping mechanism operation; thus, the automatic operation (the electronic system), causing the clamp 52 to clamp chair 50 to cable 2 to be transported as a chairlift.

Regarding claim 37, Feuz discloses: a control system, i.e. the automatic operation (col 1, ln 1-47; see also col 3, ln 8-42) allowing a chair 50 to be in a free-roll in segment 4, i.e. free-roll a long cable 2, wherein chair's rollers 66 will roll over wheels 6&8, which are situated on cable 4, by the chair own weight (see examiner rational cited in claim 36 regarding the structure limitation case law).

Regarding claims 39, 58, Feuz discloses: an amusement ride operated in automatic manner (col 1, ln 1-47, wherein it is inherent in this type of ride to have a manual backup system in case of emergency or other situation).

Regarding claim 41 Feuz discloses: a swivel mechanism (fig 1, with rollers 66 on top of wheels 8 or 6 or 10); thus, rollers 66 in conjunction with wheels 6 or 8 or 10, can generate a swiveling movement of carrier 50 (see examiner rational cited in claim 36 regarding the structure limitation case law).

Regarding claims 42, 44, Feuz discloses: a control system, i.e. the automatic operation (col 1, ln 1-47; see also col 3, ln 8-42) to operate cable 2 in a certain rpm (see col 3, 8-40) to transfer chair 50 via the drive system which can be programmed to operate in this desire direction; thus, Feuz's apparatus is equipped with the same claim subject matter which enable him to operate/function in the same manner as claimed (see examiner rational cited in claim 36 regarding the structure limitation case law); the same rational follows as to the function of the clamping mechanism.

Regarding claim 46, Feuz discloses: an amusement ride for passengers (col 6, ln 2-3 the departure of passenger who were seated in chair 50) in a typical ski-lift arrangement, wherein, it is inherent in this type of arrangements to have plurality of

passenger carriers, i.e. two carriers, that travel on both side of the loop (usually, one side will carry the skier up and the other side will carry them down).

Regarding claim 47, Feuz, discloses: the assembly ride (col 1, ln 5-45, wherein it is inherent in this type of assemblies to have posts (stations) to support cable 2).

Regarding claim 48, Feuz discloses: a method of providing an amusement ride for ski-lift and alike assembled comprises the steps of: A) loading a passenger carrier, chair 50, with passenger thereon (for example: see fig 1, chair 50' in the deceleration segment 4, see col 6, ln 1-3, the departure of passenger after being loaded in chair 50 in the unloading segment 12); B) allowing the chair 50 to free-roll under gravity, i.e. under it is own weight, along the cable 2 between the segment 4(deceleration) to segment 12 (unloading) via rollers 66 onto wheels 6&8 (see col 5, ln 50-68); C) clamping chair 50 via clamping mechanism 52 (see fig 3 and col 4, ln 23-50); and D) rotating cable 2 in the direction 3 to move chair 50 (see fig 1).

Regarding claim 49, Feuz discloses: chair 50 travel onto cable 2 which is traveling in a certain rpm in direction 3, via roller 66 and the clamp mechanism 52, (see fig 1 and col 3, ln 1-35), wherein, it is inherent that the chair 50 will travel in a low predetermined speed relative to the cable since there is an existing friction force between the cable 2 and the rollers 66& clamp 52 thereon; for example, lets assume that the friction force between the chair 50 and cable 2 is A and the cable moves in 5rpm; thus, the chair 50 will moved in 5-A speed relative to the cable.

Regarding claim 50, Feuz discloses: the cable rotating direction with the passenger direction (fig 1, cable 2 in direction 3, wherein passenger carrier direction

indicate the chair movement according the numerical 50' to 50'' to 50'''; see col 5, ln 25-67& col 6, ln 1-20).

Regarding claim 51, Feuz discloses: the chair speed is substantially the same as the cable's speed; using the same example as cited in claim 49, lets assumed that A is 0.001 rpm, thus, chair 50 will travel in 4.99 rpm, which is substantially the same as if cable 2 will travel in 5 rpm.

Regarding claims 52, 56, 57, Feuz discloses: an amusement ride (fig 1 and col 1, ln 5-15 a ride that practically known at sky sites); a rotatable loop 2 between stations (see fig 1 and col 1, ln 5-15 a cable revolving between stations); a drive system that rotate the loop 2 in the direction 3 at certain rpm (see fig 1 and col 3, ln 23-30, the rpm of the moving cable 2 which has been driven by the drive system); a passenger carrier (seat 50, see figs 1-3) comprising a roller mechanism (fig 1, roller 66); a clamping mechanism (fig 1, clamp 52 ; see col 4, ln 20-35); an electronic control system, the amusement ride operated in automatic manner (see col 1, ln 1-47; see also col 3, ln 8-42 the movement of cable 2 in a certain rpm movement, caused by the drive system which is operated automatically, i.e. via the electronic control system); with respect to the method of using/ operating the passenger carrier in a free-fall along the cable, or the operation of the electronic system to actuate the clamping mechanism, the examination was conducted on the fact that the structure limitation is the claimed subject matter for an apparatus claim, see examiner's rational cited in claim 36 regarding the structure limitation case law.

Regarding claims 53, 55, Feuz discloses: a transfer station, upload segment 12 (see fig 1 and col 5, ln 65-68& col 6, ln 1-3, the transfer of passengers from chair 50); wherein, it is inherent that the station/s form of an adjacent stage/platform/ podium and a like, so passengers can go on/off the chair.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feuz US 5121695 as applied to claim 36 above, and further in view of Pearson US 4003314.

Regarding claim 40, Feuz does not disclose: a sensor, however Pearson discloses: a sensor (fig 1A sensor 45; see col 4, ln 55-65). It would have been obvious at the time the invention was made to one of ordinary skill in the art to provide Feuz's ride assembly with the well known sensor device as taught by Pearson, to obtain the predictable results of monitoring the assembly using computerize system.

6. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feuz US 5121695 as applied to claim 36 above, and further in view of Carpenter US 5931416.

Regarding claim 59, Feuz does not disclose: that the control system, i.e. the automatic operation of the amusement apparatus, can be radio controlled, however, Carpenter discloses: the use of remote-control 12, i.e. via radio link communication, to activate apparatus 2 (see fig 1). It would have been obvious at the time the invention was made to one of ordinary skill in the art to provide Feuz's control system an activation mode using radio link communication as taught by Carpenter, to obtain the predictable results of controlling an apparatus using a remote control.

7. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feuz US 5121695& Carpenter US 5931416 as applied to claim 59 above, and further in view of Thibaudon US 4049999 or in view of Official notice .

Regarding claims 60, the combination Feuz& Carpenter does not disclose: the control system, i.e. the automatic activation of the amusement device, located in the chair 50; Thibaudon discloses: chairs 1-n upon passing point (for example p1) activating switch 38 to register 36 in order to activate chairs 1-n in high or low speed (see col 1, ln 50-68& col 2); thus, each chair 1-n is/are a passenger control module located on the chair itself and will control the high/low speed upon contacting the point selector. Also, examiner takes official notice that the well known elevator buildings having a passenger control module located in the passenger carrier; It would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the combination Feuz& Carpetnter's ride assembly, a control system positioned within the passenger

carrier as taught by Thibaudon, or as taught by the well known elevator system, to obtain the predictable results of controlling the amusement device using a control system within the passenger carrier and having a much closer onsite controlling over the passenger carrier.

8. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feuz US 5121695 as applied to claim 36 above, and further in view of Thibaudon US 4049999 or in view of Official notice.

Regarding claims 61, Feuz does not disclose: the control system, i.e. the automatic activation of the amusement device, located in the chair 50; Thibaudon discloses: chairs 1-n upon passing point (for example p1) activating switch 38 to register 36 in order to activate chairs 1-n in high or low speed (see col 1, ln 50-68& col 2); thus, each chair 1-n, is/are a passenger control module located on the chair itself and will control the high/low speed upon contacting the point selector. Also, the well known elevator buildings having a passenger control module located in the passenger carrier; It would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the combination Feuz& Carpetnter's ride assembly, a control system positioned within the passenger carrier as taught by Thibaudon, or as taught by the well known elevator system, to obtain the predictable results of controlling the amusement device using a control system within the passenger carrier and having a much closer onsite controlling over the passenger carrier.

Response to Arguments

9. Applicant's arguments filed 7/27/09 have been fully considered but they are not persuasive.

10. With respect that Feuz does not disclose: “enabling the passenger carrier to free-roll along the cable”. Feuz discloses: a chair 50 (passenger carrier marked as 50’ in segment 4) is in a free-roll in segment 4, i.e. free-roll a long cable 2; chair's rollers 66 will roll over wheels 6&8, which are situated on cable 2, by the chair’s own weight, and therefore causing chair 50 to roll/slide/move by gravity (see col 5, ln 50-65); thus, there is a free-roll of chair 50 in segment 4 along cable 2 via rollers 66 rolling onto wheels 6&8 by the chair’s own weight, i.e. via gravity.

11. With respect to applicant’s arguments of the combination of Pearson and Feuz not disclosing all the features claimed, the combination of Pearson to Feuz is to teach the missing claimed subject matter of having an amusement device with sensor thereon (see Pearson fig 1A sensor 45). As discussed supra, the examiner disagrees with applicant’s contention that Feuz does not disclose the limitation of enabling the passenger carrier to free-roll along the cable.

12. With respect to Feuz does not disclose: the claim limitation of "allowing the passenger carrier to free-roll under gravity along a span of a cable loop from a position at or toward one station toward another station” as presented in claim 48; Feuz discloses: a chair 50 (passenger carrier marked as 50’ in segment 4) is in a free-roll in segment 4, i.e. free-roll a long cable 2; chair's rollers 66 will roll over wheels 6&8, which

are situated on cable 2, by the chair's own weight, and therefore allowing chair 50 to free-roll by gravity from the declaration segment 4 towards the unloading segment 12 along cable 2 (see col 5, ln 50-65), i.e. the movement of the chair from one station towards another station.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMIR KLAYMAN whose telephone number is (571)270-7131. The examiner can normally be reached on Mo. - Fr. (7:30AM-5:00PM). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene KIM can be reached on (571) 272-4463. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AK/ 11/2/09

/Kurt Fernstrom/

Primary Examiner, Art Unit 3711